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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**COMMODITY FUTURES TRADING )  
COMMISSION, )**

**Plaintiff, )**

**vs. )**

**EQUITY FINANCIAL GROUP, LLC, )  
TECH TRADERS, INC., TECH )  
TRADERS, LTD., MAGNUM )  
INVESTMENTS, LTD., VINCENT J. )  
FIRTH, ROBERT W. SHIMER, COYT )  
E. MURRAY, and J. VERNON )  
ABERNETHY )**

**Defendants. )**

**Civil Action No.: 04CV 1512**

**Honorable Robert B. Kugler**

**RECOMMENDATION OF STEPHEN T. BOBO, EQUITY RECEIVER, REGARDING  
TREATMENT OF UNIVERSE CAPITAL APPRECIATION, LLC**

Stephen T. Bobo, (the “Receiver”) the Equity Receiver of Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Vincent J. Firth and Robert W. Shimer, files this Recommendation Regarding Treatment of Universe Capital Appreciation, LLC (“Universe”) in response to the Court’s request for a recommended approach for distributing receivership assets directly to Universe investors. On an overall basis, the Receiver believes that a pro rata distribution to Universe investors would be fair and equitable based on the so-called “rising tide” method, analogous to

the proposal for Tech Traders, Inc. and Shasta Capital Associates, LLC (“Shasta”) discussed at length in the Motion of Equity Receiver for Authority to Make an Interim Distribution on Account of Investor Claims (the “Distribution Motion”) filed on January 7, 2005.

The following issues relating to Universe must be resolved before such a distribution plan can be implemented:

1. **Universe investors and the amounts they invested.** As a threshold matter, the Receiver believes that it is important to confirm the names and addresses of the Universe investors and the amounts of each investor’s investments and withdrawals. Although the Manager of Universe, David Perkins, has provided a list of names of the individuals and entities that he asserts have a beneficial interest in Universe’s investment with Shasta, the Receiver intends to corroborate this information. At this time, the CFTC reports that it has a nearly complete set of bank records for the one known checking account held in the name of Universe. Based on these bank records, the CFTC issued approximately 50 investor questionnaires to those persons believed to have invested with Universe. The Receiver is advised that, to date, the CFTC has received back only 10 completed investor questionnaires and expects to follow up in the coming weeks with those investors who have not yet responded to the CFTC’s request for information. These investor questionnaires coupled with a complete set of bank records, both of which the Receiver expects to receive from CFTC, should confirm the names and addresses of the Universe investors and the amounts of each investor’s investments and withdrawals. If necessary, the Receiver’s counsel may directly contact these investors with remaining questions and unresolved discrepancies.

2. **Creditor Claims.** Any Universe debts to trade creditors and any other non-investor claimants also should be addressed before a distribution can be made to its investors.

To the Receiver's knowledge, the only significant asset of Universe is its investment in Shasta. The Receiver believes that it would be inequitable to distribute the value of this investment directly to the equity members of Universe without addressing any other outstanding claims against it. The bank records for the known Universe checking account should assist the Receiver and his staff in identifying potential creditors. Also, Mr. Perkins should be able to assist the Receiver in identifying whether Universe has any unpaid trade creditors and any other non-investor claimants once he is released from federal prison next month. If it appears that Universe may have outstanding debts, the Receiver will request authority from the Court to initiate a creditor claim process to determine how to allocate the distribution available to Universe.

3. **Overlap with Kaivalya Holding Group, Inc.** To the extent that any Universe investors directly or indirectly received Tech Traders funds through Kaivalya Holding Group, Inc. ("Kaivalya"), then those funds should be treated as a previous withdrawal. This is consistent with the Receiver's proposed treatment of Shasta investors who were recipients of Tech Traders funds through Kaivalya and Edgar Holding Group, Inc. It is contemplated that investors would generally be allowed to retain any previous Kaivalya withdrawals up to the net amount of their Universe investments but that any such withdrawals would be offset against the investors' respective pro rata distributions. The Receiver is still reviewing the records relating to Kaivalya payments. In addition, there is the possibility that certain Universe investors received a return of a portion of their investments through an affiliate of Universe. The Receiver suggests that any such indirect payments should also be factored into the amount of the respective distributions.

4. **Costs of Administering the Universe distribution.** Most of the Receiver's efforts to date have focused on Tech Traders and Shasta (and their investors). The Receiver believes that Universe investors should bear a fair share of the incremental costs associated with

specifically administering and distributing receivership assets to Universe investors and any Universe creditors. The Receiver recommends that at least 5 percent of the Universe share of the interim distribution by Shasta be held in reserve to help defray the receivership costs directly related to Universe. Otherwise, these costs would be borne by all Tech Traders and Shasta investors. The exact amount of those costs to be borne by Universe can be determined at a later date, with a prove up made at the time of the final distribution by Shasta to Universe.

**5. Distribution Approach.** After resolving these issues, as any well as other issues that may emerge in his review of Universe and its affairs, the Receiver recommends a distribution to Universe investors consistent with the proposed treatment of Shasta as a Tech Traders Tier One investor. As a Tier Two investor, Universe would receive a pro rata distribution from Shasta and in turn make a pro rata distribution to its Tier Three investors. Universe would have a claim for the total dollar amount it transferred to Shasta less all amounts Shasta previously repaid to Universe. As explained in the Distribution Motion and the Receiver's subsequent Reply, the Receiver proposes that Tech Traders and Shasta each make an initial distribution of 38 percent to their respective investors. Universe therefore would be entitled to 38 percent of the total dollar amount it transferred to Shasta less all amounts Shasta previously repaid to Universe. Based on the facts presently known to the Receiver, Universe invested a total of approximately \$3,079,500 with Shasta and received distributions from Shasta totaling approximately \$432,435, most of which appears to have been paid to its investors. Therefore, Universe's net share of the proposed interim distribution would be approximately \$737,775. This net distribution amount would be reduced at least 5 percent, or approximately \$36,888, as a reserve for estimated administration costs. In addition, the amount of possible creditor claims against Universe would also need to be held back after that amount is determined.

The net result would then be available for distribution pro rata among the Universe investors, taking into account each investor's prior direct and indirect withdrawals and any adjustments for possible Kaivalya overlaps or repayments through affiliates of Universe.

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Dated: August 16, 2005

Respectfully submitted,

Stephen T. Bobo,  
Equity Receiver for Equity Financial Group,  
LLC, Tech Traders, Inc., Tech Traders, Ltd.,  
Magnum Investments, Ltd., Magnum Capital  
Investments, Ltd., Vincent J. Firth and Robert  
W. Shimer

By: s/ Jeffrey A. Carr  
One of his attorneys